



STATE OF NEW JERSEY

In the Matter of Kerry-Ann Marshall,
Senior Juvenile Detention Officer
(PC2176B), Essex County

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

CSC Docket No. 2021-960

Examination Appeal

ISSUED: MARCH 26, 2021 (RAM)

Kerry-Ann Marshall appeals the determination of the Division of Agency Services (Agency Services) that she lacked the required amount of permanent service in a title to which the announcement was open for the promotional examination for Senior Juvenile Detention Officer (SJDO) (PC2176B), Essex County.

By way of background, the announcement for the subject examination was issued on February 1, 2020 and was open to employees in the non-competitive division who were currently serving as a Juvenile Detention Officer (JDO) or JDO, Bilingual in Spanish and English, and had an aggregate of one year of continuous permanent service and who possessed two years of experience in the care and custody of juveniles or young inmates confined in an institution as of the February 21, 2020 closing date. It is noted that 29 applicants were admitted to the subject examination. It is further noted that an examination for the subject title has not yet been administered.

Agency Services determined that the appellant did not possess the one year of permanent service as a JDO with Essex County prior to the examination closing date. In that regard, the appellant was appointed as a JDO effective March 1, 2019.

On appeal to the Civil Service Commission (Commission), the appellant states that she served as a SJDO within the Union County Detention Center. The appellant further indicates that she began her employment with that agency as a JDO in April 2013, and upon taking and passing the examination for SJDO, she served in that title

beginning in October 2016. However, after the closure of the Union County Detention Center on February 28, 2019, she accepted a JDO position with the Essex County Detention Center because there were no SJDO positions available at that time. Finally, the appellant submits that her Associate's degree in Criminal Justice and Applied Science is justification as to why she qualifies for the subject examination¹.

It is noted that agency records indicate that the appellant was appointed as a JDO with Union County, effective April 7, 2013, and thereafter held various titles. She then returned to a JDO position effective August 22, 2014. On September 25, 2016, the appellant was promoted to SJDO and served in that title until February 28, 2019, at which time she was laid off.

CONCLUSION

N.J.A.C. 4A:4-2.6(a)2 provides that applicants shall meet all requirements specified in the promotional examination announcement by the closing date. However, *N.J.A.C.* 4A:1-1.2(c) states that the Commission may relax a rule for good cause in particular situations, on notice to affected parties, in order to effectuate the purposes of Title 11A, New Jersey Statutes.

In the instant matter, Agency Services correctly determined that the appellant was ineligible for the subject examination as she did not meet the one-year service requirement as a JDO in Essex County as of the February 21, 2020 closing date. However, a review of agency records indicates that that the appellant was employed at the Union County Detention Center continually as a JDO from August 22, 2014 until her promotion to SJDO on September 25, 2016. The record also indicates that effective February 28, 2019, the appellant was laid from Union County and was appointed as a new hire with Essex County as a JDO effective March 1, 2019. Since her appointment in Essex County was not an intergovernmental transfer, she does not carry any of her seniority. Thus, her seniority as a JDO in Essex County began on March 1, 2019. Nevertheless, it cannot be ignored that the appellant has the years of experience, and effective March 1, 2020, approximately one week after the February 21, 2020 closing date, the appellant possessed enough permanent status in the title to meet the announced examination requirements. Finally, the examination for the subject title has not yet been administered, and absent the acceptance of the appellant's permanent service after the February 21, 2020 closing date, the appellant could possibly have to wait an indeterminate number of years before there is another examination announcement for the subject title.

Therefore, under these circumstances, the Commission finds that good cause exists to relax the provisions of *N.J.A.C.* 4A:4-2.6(a)2 and admit the appellant to the subject examination. In this regard, the purpose of the Civil Service system is best served when more rather than fewer individuals are presented with appointments

¹ It is noted that education is not a substitution for experience.

and/or advancement opportunities. *See Communications Workers of America v. New Jersey Department of Personnel*, 154 N.J. 121 (1998).

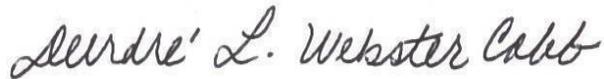
Finally, this determination does not provide precedent in any other matter. Rather, this determination would only apply to those individuals in similar circumstances who were rejected for the subject examination and who filed successful appeals with the Commission.²

ORDER

Therefore, it is ordered that this appeal be granted, and the appellant's application be processed, for prospective employment opportunities only.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 24TH DAY OF MARCH, 2021



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² However, no other appeal for the examination was filed.